

110TH CONGRESS
2D SESSION

S. 3468

To amend title XVIII of the Social Security Act to continue the ability of hospitals to supply a needed workforce of nurses and allied health professionals by preserving funding for hospital operated nursing and allied health education programs.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2008

Mr. SCHUMER (for himself and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to continue the ability of hospitals to supply a needed workforce of nurses and allied health professionals by preserving funding for hospital operated nursing and allied health education programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Nursing and Allied
5 Health Education Preservation Act of 2008".

1 SEC. 2. PRESERVATION OF PROVIDER OPERATED NURSING
2 AND ALLIED HEALTH EDUCATION PRO-
3 GRAMS.

4 (a) IN GENERAL.—Section 1861(v) of the Social Se-
5 curity Act (42 U.S.C. 1395x(v)) is amended by adding at
6 the end the following new paragraph:

7 “(9) PRESERVATION OF PROVIDER-OPERATED
8 NURSING AND ALLIED HEALTH EDUCATION PRO-
9 GRAMS.—

10 “(A) IN GENERAL.—The Secretary shall not
11 deny provider-operated status for a nursing and al-
12 lied health education program that substantially
13 meets requirements in effect under paragraphs (e)
14 and (f) of section 413.85 of title 42, Code of Federal
15 Regulations, as of October 1, 2006, on the basis of
16 an organizational structure, contractual arrange-
17 ments, or legal structure of the program, or a
18 change in such a structure or arrangement, such as
19 those described in subparagraph (B), so long as a
20 hospital, hospitals, or health system continues to
21 substantially control the nursing or allied health pro-
22 gram.

23 “(B) EXAMPLES OF ARRANGEMENTS AND
24 STRUCTURES.—The following are examples of an or-
25 ganizational structure, contractual arrangement,
26 legal structure, or a change in such a structure or

1 arrangement, referred to in subparagraph (A) of a
2 provider-operated program:

3 “(i) The students enrolled in the program
4 are concurrently enrolled in a college, commu-
5 nity college, or university or receive degrees, di-
6 plomas, or other certificates or credentials upon
7 graduation from both the nursing or allied
8 health education and the college, community
9 college, or university.

10 “(ii) The program enters into an agree-
11 ment with a third-party to provide classroom,
12 administrative, or financial services if the con-
13 tract is related to the nursing or allied health
14 education activity and the hospital or other pro-
15 vider retains the authority to modify, amend,
16 rescind, or renew the agreement.

17 “(iii) The program fails to comply with
18 regulations or requirements promulgated for
19 such a program because such compliance would
20 result in direct conflict with requirements—

21 “(I) of the State Board of Nursing or
22 other regulatory agency in the State in
23 which the program is located; or

24 “(II) of a national nursing or allied
25 health accreditation body or a regional, in-

stitutional accrediting body that is recognized by the Department of Education or such a State Board or regulatory agency.

“(iv) The program which is offered by a for profit college or university is wholly owned by a hospital or health system, or by a non-profit college or university that is operated by a hospital or health system, and collectively the college or university and the hospital or health system meets all the requirements in effect under paragraphs (e) and (f) of section 413.85 of title 42, Code of Federal Regulations.

“(v) The nursing or allied health education program is operated by one or more hospitals, or a health system or chain organization, or any combination of a hospital or hospitals and providers or entities whose principal business is providing hospital services.

“(C) LIMITATION ON PAYMENT DENIALS.—The Secretary—

“(i) shall not recoup, withhold, offset, disallow, or deny reasonable cost, pass-through payment for the costs of approved educational activities for a nursing or allied health education program described in subparagraph (A)

on a ground for which a denial of provider-operated status is not permitted under such subparagraph;

“(ii) shall not reopen any cost reporting year of any hospital for the purpose of effecting any recoupment or other denial of payment described in clause (i) and shall withdraw and discontinue any such reopening effected before the date of the enactment of this paragraph; and

“(iii) shall restore to a hospital any such recoupment or denial effected for a previous cost reporting year by not later than the hospital’s cost reporting year beginning after such date of enactment.

“(D) CONSTRUCTION.—This paragraph shall not affect payment—

“(i) with respect to a provider-operated program which is in compliance with regulations and guidance issued as of the date of the enactment of this paragraph; or

“(ii) to a hospital or provider with respect to reasonable cost, pass-through reimbursement pursuant to section 4004(b) of the Omnibus



3 8095 00017262 3

6

- 1 Budget Reconciliation Act of 1990 (Public Law
- 2 101-508; 104 Stat. 1388-39).”.

○